## SUBJECT INDEX

(a) after a reference indicates a leading article; (b) book notice; (c) correspondence; (n) note; (r) book review

1651-723

## ADMINISTRATIVE LAW

See also Black Lung Benefits Act, Disability Discrimination, Immigration.

Cost-Benefit Default Principles — Cass R.

## AFFIRMATIVE ACTION

See Education.

Sunstein (a)

#### **ANTITRUST**

Anticompetitive Effect of Passive Investment, The — David Gilo (a) 1-47

#### BANKRUPTCY

Rejection Versus Termination: A Sublessee's Rights in a Lease Rejected in a Bankruptcy Proceeding Under 11 U.S.C. § 365 (d)(4) — Vivek Sankaran (n)853-75

## BIOGRAPHY

Budding Translation — Milner S. Ball (r) 1265-78 Eye Single for Righteousness, An — Mark Sidel (r) 1637-49

## **BLACK LUNG BENEFITS ACT**

Reducing the Overburden: The *Doris Coal*Presumption and Administrative Efficiency Under the Black Lung Benefits Act
— *Eric R. Olson* (n) 696-720

#### CHILD LAW

Are We Protecting the Wrong Rights? — Jennifer L. Saulino (b) 1455-72

## CHILDREN

See Family Law.

# CIVIL RIGHTS

See Homosexuality and Lesbianism.

# COGNITIVE STUDIES

See Legal Theory.

## CONTRACTS

Prosecution of Minor Subcontractors Under the Major Fraud Act of 1988 — Chris Liro (n) 669-95

## COMMERCIAL LAW

Private Commercial Law in the Cotton Industry: Creating Cooperation Through Rules, Norms, and Institutions — Lisa Bernstein (a) 1724-90 hould the Law Ignore Commercial Norms?

Should the Law Ignore Commercial Norms? A Comment on the Bernstein Conjecture and Its Relevance for Contract Law Theory and Reform — Jason Scott Johnston (c) 1791-810

## CONFESSION LAW

See Criminal Procedure.

## CONSTITUTIONAL HISTORY

See Second Amendment.

#### CONSTITUTIONAL LAW

See Criminal Procedure, Establishment Clause, First Amendment, Second Amendment, Treaty Power, Voting Rights.

## CONSTITUTIONAL THEORY

Terry Firma: Background Democracy and Constitutional Foundations — Frank I. Michelman (a) 1827-52

#### CORPORATIONS

See Antitrust, Tax.

## CORRUPTION

Ever the Twain Shall Meet — Fred S. McChesney (r) 1348-69

## CRIMINAL LAW

See Federal Sentencing Guidelines.

# CRIMINAL PROCEDURE

Asymmetry, Fairness, & Criminal Trials — Stephen E. Hessler (b) 1560-82

Deceptive Police Interrogation Practices: How Far Is Too Far? — Laurie Magid (a) 1168-210

Establishing Inevitability Without Active Pursuit: Defining the Inevitable Discovery Exception to the Fourth Amendment Exclusionary Rule — Stephen E. Hessler (a) 238-78

Identifying and (Re)formulating Prophylactic Rules, Safe Harbors, and Incidental Rights in Constitutional Criminal Procedure — Susan R. Klein (a) 1030-80

In the Stationhouse After Dickerson — Charles D. Weisselberg (a) 1121-67

- Miranda, Dickerson, and the Puzzling Persistence of Fifth Amendment Exceptionalism — Stephen J. Schulhofer (a) 941-57 Miranda's Failure to Restrain Pernicious In-
- terrogation Practices Welsh S. White
  (a) 1211-47
- Miranda's Mistake William J. Stunts

  (a) 975-99

  Miranda, the Constitution, and Congress —
- David A. Strauss (a) 958-74
  Paths Not Taken: The Supreme Court's Failures in Dickerson, The Paul G. Cassell
- (a) 898-940
  Questioning the Relevance of Miranda in the Twenty-First Century Richard A.
- Leo (a) 1000-29
  Racial Origins of Modern Criminal Procedure, The Michael J. Klarman (a)48-97
- Separated at Birth but Siblings Nonetheless.

  Miranda and the Due Process Notice

  Cases George C. Thomas III

  (a) 1081-120

## DIVORCE

See Family Law.

#### DISABILITY DISCRIMINATION

Deference and Disability Discrimination — Rebecca Hanner White (a) 532-87

#### **EDUCATION**

Integration Without Classification: Moving Toward Race-Neutrality in the Pursuit of Public Elementary and Secondary School Diversity — Paul Diller (n) 1999-2061

# **ELECTION LAW**

2000 Presidential Election: Archetype or Exception? The — Michael C. Dorf (r) 1279-97

# ESTABLISHMENT CLAUSE

How to Apply the Religious Freedom Restoration Act to Federal Law Without Violating the Constitution — Gregory P. Magarian (a) 1903-98

#### **EVOLUTIONARY BIOLOGY**

Natural History of Rape: Biological Bases of Sexual Coercion, A — Elisabeth A. Lloyd(r) 1536-59

## **EXCLUSIONARY RULE**

See Criminal Procedure.

# EXECUTIVE COMPENSATION

See Antitrust.

## **EXECUTIVE POWERS**

See Treaty Power.

#### FAMILY LAW

See also Child Law.

Eliminating Consideration of Parental Wealth in Post-Divorce Child Custody Disputes — Carolyn J. Frantz (n) 216-37 How to Plot Love on an Indifference Curve — Brian H. Bix (r) 1439-54

## FEDERALISM

See Treaty Power.

#### FEDERAL SENTENCING GUIDELINES

Aggravated Assaults with Chairs versus Guns: Impermissible Applied Double Counting Under the Sentencing Guidelines — Carolyn Barth (n) 183-215

## FIRST AMENDMENT

Proactive Legislation and the First Amendment — Stuart Minor Benjamin (a) 281-

## FOREIGN AFFAIRS

See Treaties.

## FOURTH AMENDMENT

See Criminal Procedure.

## FRAUD

See Contracts.

#### GERRYMANDERING

See Voting Rights.

## GLOBALIZATION

See Individualism.

## GOVERNMENT

See Corruption.

#### GUNS

See Second Amendment.

## HEALTH

See Immigration.

#### HISTORY

See Biography, Guns.

## HOMOSEXUALITY AND LESBIANISM

Finding Gold in the Rainbow Rights Movement — Shayna S. Cook (b) 1419-38.

# IMMIGRATION

Exclusion of HIV-Positive Immigrants
Under the Nicaraguan Adjustment and
Central American Relief Act and the

Haitian Refugee Immigration Fairness Act, The — Shavna S. Cook (n) 452-87

#### INDIVIDUALISM

Individualism in the Age of Internationalism

— Alyson Cole (r) 1409-18

#### INTELLECTUAL PROPERTY

See Patent Litigation.

## INTERNATIONAL AGREEMENTS

See Treaties.

#### JUDICIAL REVIEW

See Constitutional Theory, First Amendment, Trade Law.

#### HIRIES

See also Patent Litigation.

Conjunction and Aggregation — Saul
Levmore (a) 723-56

## JUSTICE

See Political Theory.

## LAW AND ECONOMICS

See Family Law.

# LAW AND MATH

See Juries.

## LAW AND SOCIETY

See also Law and Language.
Where Is My Body? Stanley Fish's Long
Goodbye to Law — Richard Delgado
(r) 1370-89

## LEASE

See Bankruptcy.

# LEGAL HISTORY

See Criminal Procedure, Native Americans, Second Amendment, Treaty Power.

## LEGAL THEORY

See also Juries.

Making the Familiar Conventional Again — Steven L. Winter (r) 1607-36
USA 2050: Identity, Critical Race Theory, and the Asian Century — Adrien Katherine Wing (r) 1390-408

#### LEGISLATION

See First Amendment.

## LITIGATION

See Patent Litigation.

## LOCAL GOVERNMENT

See Urban Planning.

#### MAJOR FRAUD ACT

See Contracts.

#### MIRANDA

See Criminal Procedure.

#### NATIVE AMERICANS

See also Biography.

Unsettling of the West: How Indians Got the Best Water Rights, The — David H. Getches (r) 1473-99

#### PATENT LITIGATION

Judges, Juries, and Patent Cases — An Empirical Peek Inside the Black Box — Kimberly A. Moore (a) 365-409

#### POLICE PRACTICES

See Criminal Procedure.

#### POLITICAL THEORY

See also Constitutional Theory.

Democratic Justice in Transition — Marion
Smiley (r) 1332-47

## PRIVATE LEGAL SYSTEMS

See Commercial Law.

## PROPERTY

See also Bankruptcy.

Just Compensation, Incentives, and Social Meanings — Hanoch Dagan (a) 134-56 Takings, Efficiency, and Distributive Justice: A Response to Professor Dagan — Glynn S. Lunney, Jr. (c) 157-82

#### RACE

See Criminal Procedure, Education, Legal Theory, Voting Rights.

#### RAPE

See Evolutionary Biology.

## RELIGION

See Establishment Clause.

## RHETORIC

See Legal Theory.

## RISK ANALYSIS

See Administrative Law.

## SECOND AMENDMENT

- Second Amendment: Structure, History, and Constitutional Change, The David Yassky (a)
  Taking Aim at an American Myth Paul
- Finkelman (r) 1500-19

#### SPORTS

Applying a Legal Matrix to the World of Sports — Elsa Kircher Cole (r) 1583-606

## SUBCONTRACTORS

See Contracts.

## TAKINGS LAW

See Property.

## TAX

Zen of Corporate Capital Structure Neutrality, The — Herwig J. Schlunk (a) 410-51

## TRADE LAW

Judicial Review of Member-State Regulation of Trade Within a Federal or Quasi-Federal System: Protectionism and Balancing, Da Capo — Donald H. Regan
(a) 1853-902

#### TREATIES

Laws as Treaties?: The Constitutionality of Congressional-Executive Agreements — John C. Yoo (a) 757-852

## TREATY POWER

Treaty Power and American Federalism, Part II, The — Curtis A. Bradley (a) 98-133

## URBAN PLANNING

Lessons from Sprawl — Mark S. Davies
(r) 1520-35

## VOTING RIGHTS

Morgan Kousser's Nobie Dream — Heather K. Gerken (r) 1298-331
Race and the Right to Vote After Rice v. Cayetano — Ellen D. Katz (a) 491-531

## WATER LAW

See Native Americans.

# ARTICLES

Anticompetitive Effect of Passive Investment, The — David Gilo 1-47  Applying a Legal Matrix to the World of	Making the Familiar Conventional Again — Steven L. Winter (book review) 1607-36
Sports — Elsa Kircher Cole (book review) 1583-606	Miranda, Dickerson, and the Puzzling Per- sistence of Fifth Amendment Exceptional- ism — Stephen J. Schulhofer 941-57
Budding Translation — Milner S. Ball (book review) 1265-78	Miranda's Failure to Restrain Pernicious In-
Conjunction and Aggregation - Saul	terrogation Practices — Welsh S. White 1211-47
Levmore 723-56 Cost-Benefit Default Principles — Cass R.	Miranda's Mistake — William J. Stuntz 975-99
Sunstein 1651-723	Miranda, the Constituiton, and Congress —
Deceptive Police Interrogation Practices: How Far Is Too Far? — Laurie Magid 1168-210	David A. Strauss 958-74 Morgan Kousser's Noble Dream —Heather
Deference and Disability Discrimination —	K. Gerken (book review) 1298-331
Rebecca Hanner White 532-87	Natural History of Rape: Biological Bases
Democratic Justice in Transition — Marion	of Sexual Coercion, A — Elisabeth A. Lloyd (book review) 1536-59
Smiley (book review) 1332-47 Ever the Twain Shall Meet — Fred S.	Paths Not Taken: The Supreme Court's Fail-
McChesney (book review) 1348-69 Eye Single for Righteousness, An — Mark	ures in Dickerson, The — Paul G. Cassell 898-940
Sidel (book review) 1637-49	Private Commercial Law in the Cotton In-
Foreword: From Miranda to § 3501 to Dickerson to — Yale Kamisar	dustry: Creating Cooperation Through Rules, Norms, and Institutions — Lisa
(introduction) 879-97	Bernstein 1724-90
Foreword: On Academic Fads and Fashions — Cass R. Sunstein (introduction)1251-64	Proactive Legislation and the First Amendment — Stuart Minor Benjamin 281-364
How to Apply the Religious Freedom Res-	Questioning the Relevance of Miranda in
toration Act to Federal Law Without Vio- lating the Constitution — Gregory P.	the Twenty-First Century — Richard A. Leo 1000-29
Magarian 1903-98	Race and the Right to Vote After Rice v.
How to Plot Love on an Indifference Curve  — Brian H. Bix (book review) 1439-54	Cayetano — Ellen D. Katz 491-531
Identifying and (Re)formulating Prophylac-	Racial Origins of Modern Criminal Procedure. The — Michael J. Klarman 48-97
tic Rules, Safe Harbors, and Incidental	Second Amendment: Structure, History and
Rights in Constitutional Criminal Procedure — Susan R. Klein 1030-80	Constitutional Change, The — David
Individualism in the Age of Internationalism	Yassky 588-668
- Alyson Cole (book review) 1409-18	Separated at Birth but Siblings Nonetheless: Miranda and the Due Process Notice
In the Stationhouse After Dickerson — Charles D. Weisselberg 1121-67	Cases — George C. Thomas III 1081-120
Judges, Juries, and Patent Cases — An Em-	Should the Law Ignore Commercial Norms?
pirical Peek Inside the Black Box -	A Comment on the Bernstein Conjecture and Its Relevance for Contract Law The-
Kimberly A. Moore 365-409	ory and Reform — Jason Scott Johnston
Judicial Review of Member-State Regula- tion of Trade Within a Federal or Ouasi-	(correspondence) 1791-810
Federal System: Protectionism and Bal-	Taking Aim at an American Myth - Paul
ancing, Da Capo - Donald H.	Finkelman (book review) 1500-19
Regan 1853-902  Just Compensation, Incentives, and Social	Takings, Efficiency, and Distributive Justice: A Response to Professor Dagan — Glynn
Meanings — Hanoch Dagan 134-56	S. Lunney, Jr. (correspondence) 157-82
Laws as Treaties?: The Constitutionality of	Terry Firma: Background Democracy and
Congressional-Executive Agreements — John C. Yoo 757-852	Constitutional Foundations — Frank I. Michelman 1827-52
Lessons from Sprawl — Mark S. Davies	Treaty Power and American Federalism,
(book review) 1520-35	Part II, The — Curtis A. Bradley 98-133

- 2000 Presidential Election: Archetype or Exception?, The — Michael C. Dorf (book review) 1279-97
- Unsettling of the West: How Indians Got the Best Water Rights, The David H. Getches (book review) 1473-99
- USA 2050: Identity, Critical Race Theory, and the Asian Century Adrien Katherine Wing (book review) 1390-408
- Where Is My Body? Stanley Fish's Long Goodbye to Law — Richard Delgado (book review) 1370-89
- Zen of Corporate Capital Structure Neutrality, The — Herwig J. Schlunk 410-51

# NOTES

A	71.14 B. C. T. J. D.
Aggravated Assaults with Chairs versus	Haitian Refugee Immigration Fairness
Guns: Impermissible Applied Double	Act, The — Shayna S. Cook 452-87
Counting Under the Sentencing Guide-	Finding Gold in the Rainbow Rights Move-
lines — Carolyn Barth 183-215	ment — Shayna S. Cook 1419-38
Are We Protecting the Wrong Rights? -	Integration Without Classification: Moving
Jennifer L. Saulino 1455-72	Toward Race-Neutrality in the Pursuit of
Asymmetry, Fairness, & Criminal Trials -	Public Elementary and Secondary School
Stephen E. Hessler 1560-82	Diversity — Paul Diller 1999-2061
Eliminating Consideration of Parental	Prosecution of Minor Subcontractors Under
Wealth in Post-Divorce Child Custody	the Major Fraud Act of 1988 - Chris
Disputes — Carolyn J. Frantz 216-37	Liro 669-95
Establishing Inevitability Without Active	Reducing the Overburden: The Doris Coal
Pursuit: Defining the Inevitable Discov-	Presumption and Administrative Effi-
ery Exception to the Fourth Amendment	ciency Under the Black Lung Benefits Act
Exclusionary Rule - Stephen E.	- Eric R. Olson 696-720
Hessler 238-78	Rejection Versus Termination: A Subles-
Exclusion of HIV-Positive Immigrants	see's Rights in a Lease Rejected in a
Under the Nicaraguan Adjustment and	Bankruptcy Proceeding Under 11 U.S.C.
Central American Relief Act and the	§ 365 (d)(4) -Vivek Sankaran 853-75

# **AUTHORS**

B W C BIE T I	I D A Oversierie de Dele
BALL, MILNER S. — Budding Translation	LEO, RICHARD A. — Questioning the Rele-
(book review) 1265-78	vance of Miranda in the Twenty-First Century 1000-29
BENJAMIN, STUART MINOR — Proactive	
Legislation and the First Amend- ment 281-364	Levmore, Saul — Conjunction and Aggregation 723-56
ment 281-364 Bernstein, Lisa — Private Commercial	Aggregation 723-56 LLOYD, ELISABETH A. — Natural History of
Law in the Cotton Industry: Creating Co-	Rape: Biological Bases of Sexual Coer-
operation Through Rules, Norms, and	cion, A (book review) 1536-59
Institutions 1724-90	LUNNEY, GLYNN S., JR. — Takings, Effi-
Bix, Brian H. — How to Plot Love on an	ciency, and Distributive Justice: A Re-
Indifference Curve (book review) 1439-54	sponse to Professor Dagan (corres-
Bradley, Curtis A. — Treaty Power and	pondence) 157-82
American Federalism, Part II, The 98-133	MARGARIAN, GREGORY P. — How to Ap-
CASSELL, PAUL G. — Paths Not Taken: The	ply the Religious Freedom Restoration
Supreme Court's Failures in Dickerson,	Act to Federal Law Without Violating the
The 898-940	Constitution 1903-98
COLE, ALYSON - Individualism in the Age	MAGID, LAURIE - Deceptive Police Inter-
of Internationalism (book review) 1409-18	rogation Practices: How Far Is Too
COLE, ELSA KIRCHER — Applying a Legal	Far? 1168-210
Matrix to the World of Sports (book	McChesney, Fred S. — Ever the Twain
review) 1583-606	Shall Meet (book review) 1348-69
Dagan, Hanoch — Just Compensation, In-	MICHELMAN, FRANK I. — Terry Firma:
centives, and Social Meanings 134-56	Background Democracy and Constitu-
Davies, Mark S. — Lessons from Sprawl	tional Foundations 1827-52
(book review) 1520-35	Moore, Kimberly A. — Judges, Juries, and
DELGADO, RICHARD — Where Is My	Patent Cases — An Empirical Peek Inside
Body? Stanley Fish's Long Goodbye to	the Black Box 365-409
Law (book review) 1370-89  DORF, MICHAEL C. — 2000 Presidential	REGAN, DONALD H. — Judicial Review
	of Member-State Regulation of Trade Within a Federal or Quasi-Federal Sys-
Election: Archetype or Exception?, The (book review) 1279-97	tem: Protectionism and Balancing, Da
FINKELMAN, PAUL — Taking Aim at an	Capo 1853-902
American Myth (book review) 1500-19	SCHLUNK, HERWIG J. — Zen of Corporate
GERKEN, HEATHER K. — Morgan Kousser's	Capital Structure Neutrality, The 410-51
Noble Dream (book review) 1298-331	SCHULHOFER, STEPHEN J Miranda,
GETCHES, DAVID H Unsettling of the	Dickerson, and the Puzzling Persistence of
West: How Indians Got the Best Water	Fifth Amendment Exceptionalism 941-57
Rights, The (book review) 1473-99	SIDEL, MARK - Eye Single for Righteous-
GILO, DAVID - Anticompetitive Effect of	ness, An (book review) 1637-49
Passive Investment, The 1-47	SMILEY, MARION — Democratic Justice in
JOHNSTON, JASON SCOTT — Should the Law	Transition (book review) 1332-47
Ignore Commercial Norms? A Comment	STRAUSS, DAVID A. — Miranda, the Consti-
on the Bernstein Conjecture and Its Rele-	tution, and Congress 958-74
vance for Contract Law Theory and Re-	STUNTZ, WILLIAM J Miranda's
form (correspondence) 1791-810	Mistake 975-99
Kamisar, Yale — Foreword: From Miranda to § 3501 to Dickerson to	SUNSTEIN, CASS R. — Cost-Benefit Default Principles (article) 1651-723
(introduction) 879-97	
KATZ, ELLEN D. — Race and the Right to	SUNSTEIN, CASS R. — Foreword: On Academic Fads and Fashions (intro-
Vote After Rice v. Cayetano 491-531	duction) 1251-64
KLARMAN, MICHAEL J. — Racial Origins of	THOMAS, GEORGE C., III — Separated at
Modern Criminal Procedure, The 48-97	Birth but Siblings Nonetheless: Miranda
KLEIN, SUSAN R Identifying and	and the Due Process Notice
(Re)formulating Prophylactic Rules, Safe	Cases 1081-120
Harbors, and Incidental Rights in Consti-	WEISSELBERG, CHARLES D In the Sta-
tutional Criminal Procedure 1030-80	tionhouse After Dickerson 1121-67

- WHITE, REBECCA HANNER Deference and Disability Discrimination 532-87
  WHITE, WELSH S. Miranda's Failure to Restrain Pernicious Interrogation Practices 1211-47
  WING, ADRIEN KATHERINE USA 2050: Identity, Critical Race Theory, and the Asian Century (book review) 1390-408
  WINTER, STEVEN L. Making the Familiar Conventional Again (book review) 1607-36
- YASSKY, DAVID Second Amendment: Structure, History, and Constitutional Change, The 588-668 YOO, JOHN C. — Laws as Treaties?: The Constitutionality of Congressional-Executive Agreements 757-852